

ESTTA Tracking number: **ESTTA476567**

Filing date: **06/06/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Avon Products, Inc.
Granted to Date of previous extension	06/06/2012
Address	777 Third Avenue New York, NY 10017 UNITED STATES
Attorney information	Matthew D. Marcotte Kelley Drye & Warren LLP 101 Park Avenue New York, NY 10178 UNITED STATES mmarcotte@kelleydrye.com, ccastro@kelleydrye.com

Applicant Information

Application No	85093742	Publication date	02/07/2012
Opposition Filing Date	06/06/2012	Opposition Period Ends	06/06/2012
Applicant	CBM CREATIVE BRANDS MARKEN GMBH KALANDERGRASSE 4 ZURICH, 8045 SWITZERLAND		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Perfumery, cosmetics
Class 018. All goods and services in the class are opposed, namely: Leather and imitations of leather, and goods made of these materials, namely, business card cases, credit card cases, luggage tags, cosmetic cases sold empty, leather pouches, suitcases, briefcases, athletic bags, barrel bags, beach bags, book bags, duffel bags, shoulder bags, handbags, billfolds, tote bags, leather bags for merchandise packaging, tool bags sold empty, purses, wallets, key cases, backpacks, whips, harnesses, and saddlery; trunks and travelling bags
Class 025. All goods and services in the class are opposed, namely: Clothing, namely, aprons, ascots, bandanas, neckerchief, bathrobes, bathing suits, belts for clothing, blouses, boas, camisoles, coats, corsets, cuffs, frocks, fur stoles, garters, girdles, gloves, dress suits, dresses, hosiery, jackets, jerseys, jumpers, leggings, mittens, muffs, neckties, overalls, pajamas, pants, parkas, petticoats, scarves, shawls, shirts, shorts, skirts, socks, stockings, sweaters, swimwear, teddies, T-shirts, tights, track suits, underwear, veils, and vests; footwear; headwear
Class 035.

All goods and services in the class are opposed, namely: Retail store services featuring perfumery, cosmetics, leather and imitations of leather, and goods made from these materials, trunks and travelling bags, clothing, footwear and headwear

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	633318	Application Date	10/03/1955
Registration Date	08/21/1956	Foreign Priority Date	NONE
Word Mark	AVON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U051 (International Class 003, 005). First use: First Use: 1929/09/00 First Use In Commerce: 1929/09/00 COSMETICS AND TOILETRIES-NAMELY PERFUME, TOILET WATER, POWDER COMPACTS, LIPSTICK, ROUGE, [LIQUID ROUGE,] FACE POWDER, TALCUM POWDER, DUSTING POWDER, COLOGNE, [SACHET POWDER,] BODY, FACE AND HAND CREAMS, [ANTISEPTIC CREAM] SKIN LOTIONS, DEODORANTS, ASTRINGENTS, SKIN FRESHENER [AND TONIC,] AFTER SHAVING LOTION, HAIR LOTION, [HAIR CREAM, WAVE SETTING LOTION,] NAIL POLISH, NAIL POLISH REMOVER, CUTICLE OIL AND SOFTENER, NAIL AND CUTICLE CREAM, [TOOTH POWDER, TOOTH PASTE,] MASCARA, EYEBROW PENCIL, EYE SHADOW, CAKE MAKE-UP, SUN TAN LOTION, BUBBLING BATH PREPARATION [AND STYPTIC CREAM]		

U.S. Registration No.	663255	Application Date	09/10/1957
Registration Date	06/17/1958	Foreign Priority Date	NONE
Word Mark	AVON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U052 (International Class 003). First use: First Use: 1929/09/00 First Use In Commerce: 1929/09/00 SHAMPOO PREPARATIONS; TOILET SOAPS; ANTISEPTIC SOAPS [; AND WHITE SHOE DRESSING]		

U.S. Registration No.	692928	Application Date	09/10/1957
Registration Date	02/09/1960	Foreign Priority Date	NONE
Word Mark	AVON		

Design Mark	AVON
Description of Mark	NONE
Goods/Services	Class U051 (International Class 003, 005). First use: First Use: 1929/09/00 First Use In Commerce: 1929/09/00 PERFUMERY, COSMETICS [AND DENTIFRICES]

U.S. Registration No.	926035	Application Date	04/28/1971
Registration Date	12/21/1971	Foreign Priority Date	NONE
Word Mark	AVON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U101 (International Class 035). First use: First Use: 1929/09/00 First Use In Commerce: 1929/09/00 DOOR-TO-DOOR RETAIL MERCHANDISING OF VARIOUS GOODS, INCLUDING COSMETICS, TOILETRIES, JEWELRY, GLASSWARE, AND THE LIKE		

U.S. Registration No.	1122624	Application Date	11/28/1977
Registration Date	07/24/1979	Foreign Priority Date	NONE
Word Mark	AVON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1969/05/21 First Use In Commerce: 1969/05/21 AFTER SHAVE LOTION, SHAVING CREAM, TALCUM POWDER, COLOGNE, DUSTING POWDER, [TOOTHPASTE,] MASCARA, LIPSTICK, NAIL ENAMEL, FILLED POWDER COMPACT, BUBBLE BATH AND TOILET SOAP Class 005. First use: First Use: 1969/05/21 First Use In Commerce: 1969/05/21 PERSONAL DEODORANT		

U.S. Registration No.	1538820	Application Date	11/01/1988
Registration Date	05/16/1989	Foreign Priority Date	NONE
Word Mark	AVON		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1958/00/00 First Use In Commerce: 1958/00/00 SUN TANNING LOTION


U.S. Registration No.	1555418	Application Date	11/01/1988
Registration Date	09/12/1989	Foreign Priority Date	NONE
Word Mark	AVON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1944/00/00 First Use In Commerce: 1944/00/00 BUBBLE BATH		


U.S. Registration No.	2052798	Application Date	06/12/1996
Registration Date	04/15/1997	Foreign Priority Date	NONE
Word Mark	AVON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/00/00 First Use In Commerce: 1994/00/00 clothing, namely, [lingerie, blouses, skirts, shorts, pants, dresses, shirts, pantyhose,] sweaters, [bras, panties, and scarves]		

U.S. Registration No.	1492828	Application Date	09/28/1987
Registration Date	06/21/1988	Foreign Priority Date	NONE
Word Mark	AVON MOISTURE THERAPY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1983/01/12 First Use In Commerce: 1983/01/12 BODY LOTION AND HAND CREAM		

U.S. Registration No.	2745199	Application Date	02/11/2002
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	AVON SOLUTIONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2002/12/00 First Use In Commerce: 2002/12/00		

	SKIN CARE PRODUCTS, NAMELY, FACIAL MOISTURIZING LOTIONS, CREAM, AND GELS; FACIAL CLEANSERS; FACIAL MASKS; FACIAL TONERS; EYE LOTIONS, CREAMS, AND GELS; MOISTURIZING BODY LOTIONS, CREAMS, AND GELS
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U.S. Registration No.	3089185	Application Date	10/28/2004
Registration Date	05/09/2006	Foreign Priority Date	NONE
Word Mark	AVON NATURALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1995/00/00 First Use In Commerce: 1995/00/00 Fragrance, cosmetic and toiletry products, namely, lip balm, hand cream, body lotion, body butter, liquid soap, shower gel, foam bath, and fragranced body spray		

U.S. Registration No.	3175383	Application Date	04/28/2005
Registration Date	11/21/2006	Foreign Priority Date	NONE
Word Mark	AVON EXTRAORDINARY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2005/12/29 First Use In Commerce: 2005/12/29 Fragrance and toiletry products, namely, eau de parfum, shower gel, body lotion, fragranced body spray, and body powder		

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Matthew D. Marcotte/
Name	Matthew D. Marcotte
Date	06/06/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NOTICE OF OPPOSITION

In the Matter of Application
Serial No. 85/093,742 Published
in the Official Gazette of March 2, 2012

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AVON PRODUCTS, INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	
CBM CREATIVE BRANDS MARKEN GMBH,	:	Opposition No.
	:	
Applicant.	:	
	:	
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TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

AVON PRODUCTS, INC., a New York corporation with a place of business at 777 Third Avenue, New York, New York 10017 (hereinafter "Opposer") believes that it will be damaged by registration of the designation AVANTIME for "Perfumery, cosmetics" in International Class 3, "Leather and imitations of leather, and goods made of these materials, namely, business card cases, credit card cases, luggage tags, cosmetic cases sold empty, leather pouches, suitcases, briefcases, athletic bags, barrel bags, beach bags, book bags, duffel bags, shoulder bags, handbags, billfolds, tote bags, leather bags for merchandise packaging, tool bags sold empty, purses, wallets, key cases, backpacks, whips, harnesses, and saddlery; trunks and travelling bags" in International Class 18, "Clothing, namely, aprons, ascots, bandanas, neckerchief, bathrobes, bathing suits, belts for clothing, blouses, boas, camisoles, coats, corsets, cuffs, frocks, fur stoles, garters, girdles, gloves, dress suits, dresses, hosiery, jackets, jerseys, jumpers, leggings, mittens, muffs, neckties, overalls, pajamas, pants, parkas, petticoats, scarves,

shawls, shirts, shorts, skirts, socks, stockings, sweaters, swimwear, teddies, T-shirts, tights, track suits, underwear, veils, and vests; footwear; headwear” in International Class 25, and “Retail store services featuring perfumery, cosmetics, leather and imitations of leather, and goods made from these materials, trunks and travelling bags, clothing, footwear and headwear” in International Class 35 shown in Application Serial No. 85/093,742 (“the ‘742 Application”) filed on July 27, 2010 by Applicant CBM CREATIVE BRANDS MARKEN GMBH, an limited liability company organized under the law of Switzerland, with an address of Kalandergasse 4 Zurich 8045 Switzerland (hereinafter “Applicant”) and hereby opposes the same.

As grounds therefor, it is alleged that:

1. Opposer is and has for many years been engaged in distributorship and direct sales services, door-to-door retail merchandising, telephone shop at home services, mail order catalog sales, and interactive retail sales rendered by means of a global computer information network, all in the fields of beauty care, salon and spa services, housewares, clothing, toiletries, skin care products, cosmetics, jewelry, gift items, collectibles, toys, personal care products, pre-recorded videos, audio tapes and compact discs throughout the United States and the world.

2. Since at least as early as 1929, and long prior to the filing date of the intent-to-use application herein opposed, Opposer adopted, has used and is using the trademark AVON for a wide range of products. Opposer has prior use in interstate commerce of the AVON trademark for such products and since the adoption and first use of the AVON trademark as aforesaid, Opposer has and continues to make, distribute and sell AVON branded products in interstate commerce in the United States. Accordingly, Opposer’s rights in and to its AVON trademark are valid and enforceable.

3. Opposer has advertised and promoted throughout the United States the sale and distribution in interstate commerce of its goods bearing the AVON trademark for more than seventy-five years. As a result, the AVON trademark has become famous and identified in the minds of the public and trade as evidencing products that emanate from Opposer.

4. Opposer is the owner of multiple registrations for its famous mark AVON in the U.S. Patent and Trademark Office (“PTO”), including: Registration No. 633,318 for AVON for “Cosmetics and toiletries- namely perfume, toilet water, powder compacts, lipstick, rouge, face powder, talcum powder, dusting powder, cologne, body, face and hand creams, skin lotions, deodorants, astringents, skin freshener, after shaving lotion, hair lotion, nail polish, nail polish remover, cuticle oil and softener, nail and cuticle cream, mascara, eyebrow pencil, eye shadow, cake make-up, sun tan lotion, bubbling bath preparation” issued August 21, 1956; Registration No. 663,255 for AVON for “Shampoo preparations; toilet soaps; antiseptic soaps” issued June 17, 1958; Registration No. 692,928 for AVON for “Perfumery, cosmetics” issued February 9, 1960; Registration No. 926,035 for AVON for “Door-to-door retail merchandising of various goods, including cosmetics, toiletries, jewelry, glassware, and the like” issued December 21, 1971, Registration No. 1,122,624 for AVON for “After shave lotion, shaving cream, talcum powder, cologne, dusting powder, mascara, lipstick, nail enamel, filled powder compact, bubble bath and toilet soap” and “personal deodorant” issued July 24, 1979; Registration No. 1,538,820 for AVON for “Sun tanning lotion” issued May 16, 1989; Registration No. 1,555,418 for AVON for “Bubble bath” issued September 12, 1989; and Registration No. 2,052,798 for AVON for “Clothing, namely, sweaters” issued January 21, 1997. Said registrations are valid and subsisting, unrevoked and uncanceled, incontestable, and in full force and effect.

5. Opposer is also the owner in the PTO of Registration No. 1,492,828 for AVON MOISTURE THERAPY for “Body lotion and hand cream” issued June 21, 1988; Registration No. 2,745,199 for AVON SOLUTIONS for “Skin care products, namely, facial moisturizing lotions, cream and gels; facial cleansers; facial masks; facial toners; eye lotions, creams and gels; moisturizing body lotions, creams and gels” issued July 29, 2003; Registration No. 3,089,185 for AVON NATURALS for “Fragrance, cosmetic and toiletry products, namely, lip balm, hand cream, body lotion, body butter, liquid soap, shower gel, foam bath, and fragranced body spray” issued May 9, 2006; and Registration No. 3,175,383 for AVON EXTRAORDINARY for “Fragrance and toiletry products, namely, eau de parfum, shower gel, body lotion, fragranced body spray, and body powder,” issued November 21, 2006. Said registrations are valid and subsisting, unrevoked and uncanceled, and in full force and effect.

6. By the application herein opposed, Applicant seeks to register the designation AVANTIME for “Perfumery, cosmetics” in International Class 3, “Leather and imitations of leather, and goods made of these materials, namely, business card cases, credit card cases, luggage tags, cosmetic cases sold empty, leather pouches, suitcases, briefcases, athletic bags, barrel bags, beach bags, book bags, duffel bags, shoulder bags, handbags, billfolds, tote bags, leather bags for merchandise packaging, tool bags sold empty, purses, wallets, key cases, backpacks, whips, harnesses, and saddlery; trunks and travelling bags” in International Class 18, “Clothing, namely, aprons, ascots, bandanas, neckerchief, bathrobes, bathing suits, belts for clothing, blouses, boas, camisoles, coats, corsets, cuffs, frocks, fur stoles, garters, girdles, gloves, dress suits, dresses, hosiery, jackets, jerseys, jumpers, leggings, mittens, muffs, neckties, overalls, pajamas, pants, parkas, petticoats, scarves, shawls, shirts, shorts, skirts, socks, stockings, sweaters, swimwear, teddies, T-shirts, tights, track suits, underwear, veils, and vests; footwear; headwear” in International Class 25, and “Retail store services featuring perfumery,

cosmetics, leather and imitations of leather, and goods made from these materials, trunks and travelling bags, clothing, footwear and headwear” in International Class 35.

7. Applicant’s designation AVANTIME in the ‘742 Application so resembles Opposer’s previously used and registered AVON trademark as to be likely, when used on and in connection with Applicant’s goods, to cause confusion, to cause mistake and to deceive with consequent injury to Opposer and the public.

8. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant’s trademark and would give to Applicant color of exclusive statutory rights to such designation in violation and derogation of the prior and superior rights of Opposer. Any faults or defects which might be found in Applicant’s goods would reflect adversely upon and seriously injure the valuable reputation and goodwill of Opposer.

9. WHEREFORE, Opposer believes that it would be damaged by registration of Applicant’s mark and prays that this opposition be sustained and registration for the ‘742 Application denied.

Please recognize as attorneys for Opposer William R. Golden, Jr., and Matthew D. Marcotte (members of the Bar of the State of New York) and the firm of Kelley Drye & Warren LLP, 101 Park Avenue, New York, New York 10178. Please address all communications to Matthew D. Marcotte, Esq. of said firm.

Dated: New York, New York
June 6, 2012

KELLEY DRYE & WARREN LLP
Attorneys for Opposer
AVON PRODUCTS, INC.

By: William R. Golden, Jr.
William R. Golden, Jr.
Matthew D. Marcotte
101 Park Avenue
New York, New York 10178
(212) 808-7800

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE OF OPPOSITION has been served upon Applicant's counsel at the following address of record by first class mail, postage prepaid, this 6th day of June 2012:

Anthony V. Lupo
Arent Fox LLP
1050 Connecticut Avenue NW
Washington DC 20036-5339



Matthew D. Marcotte